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United States District Court
Southern District of Georgia
Savannah Division

Mason Burbank, Inmate 99577

v

Case No:

Officer Laramie, Liberty County Jail;
Jeff Hein, Jail Administrator

FILED
U.S. DISTRICT COURT
SAVANNAH DIV.
2018 NOV -5 PM 11:18
CLERK
SO. DIST. OF GA.

Preliminary Injunctive Relief and
Temporary Restraining Order (Emergency)

Comes now Mason Burbank, Plaintiff, and asks this Honorable Court
to grant this Preliminary Injunctive Relief and Temporary
Restraining Order (Emergency). Plaintiff asks:

Preliminary Injunctive Relief to 1) prevent Officer Laramie
from working in the same tower as Burbank 2) order Jeff Hein, in his
supervisory capacity, to ensure non-lethal measures are used only
in the appropriate cases 3) order strobe lights are not to be
used against Plaintiff because of grossly disproportionate risk of
death by seizure.

Temporary Restraining Order to immediately stop all contact between
Plaintiff Burbank and Defendant Laramie because Laramie has
now twice recklessly used potentially lethal force without cause.

Wherefore Plaintiff prays this Honorable Court grant these
protections to prevent immediate loss of life while grievance
procedures are completed, authorized under Rule 65 of FRCVP.

This the 1st day of November, 2018,

22

Mason Burbank 99577
Liberty County Jail
180 Paul Sikes Dr
Hinesville, GA 31313

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United States District Court
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Case No.:

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Declaration and Law In Support of
Preliminary Injunctive Relief and Temporary
Restraining Order by Plaintiff

1. Declaration of Mason Burbank

I, Mason Burbank, hereby declare:

1. I am an inmate at Liberty County Jail, dorm 2B.
2. I am under medical care for seizure disorder and am prescribed an anti-convulsant here twice a day.
3. On 10/31/2018 at 1830, I was playing cards when they called for pill call. I went up, got my medicine from Nurse Guzman, Southern Correctional Medicine, took it, and had Officer Laramie check my mouth.
4. As I turned to walk away, Officer Laramie hit the strobe light causing an "aura" or neurological warning of a seizure coming.
5. I turned towards him, saw him look at me and smirk.
6. I returned to my table, told everyone there I think I was strobed. This was confirmed by two other inmates.
7. I asked a different officer to contact Lt. Walthour, Shift Supervisor at Liberty County Jail, about a security and medical emergency.

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8. When Lt. Walthour came, I informed her of the incident, reminded her of her response last month when the same officer did the same thing, told her I did not feel safe around Laramie because he knows I have seizures which can be fatal, and that I will be addressing this with the administration immediately. She said ok and left.

I declare under penalty of perjury that the foregoing is true and correct.

This the 31st day of October, 2018.



Mason Burbank 99577
Liberty County Jail
Hinesville, GA

2. Law

1. There is irrefutable evidence that Laramie violated the 8th and 14th Amendments.

2. Hudson v McMillian, 503 U.S. 1 (1992) says that a guard's use of force violates the 8th Amendment when it is not applied "in a good faith effort to maintain and restore discipline" but instead is used to "maliciously and sadistically cause harm."

3. The first and most important consideration is the need for force. It is clear there was no need for force at all as there was no disciplinary actions required at all.

4. Farmer v Brennan, 511 U.S. 825 (1994) says that to bring a failure to protect claim requires proof that a) the guard knew that there was a substantial risk I would be harmed, and b) he failed to reasonably protect me.

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5. *Jackson v District of Columbia*, 254 F.3d 262 (D.C. Cir. 2001)

gives federal courts a very narrow set of circumstances in which preliminary injunctive relief may be granted while the court waits for the prison grievance system to be exhausted.

6. Rule 65 FRCVP gives the limited instances when a court must grant a Temporary Restraining Order.

7. In extreme emergencies U.S. District Courts are authorized to grant both injunctive relief and a restraining order while the grievance system is being exhausted. Epilepsy is a neurological disorder that results in life-threatening and fatal seizures. My seizures, as in most epileptics, can be easily triggered by a strobe light. The officers have these devices to use as non-lethal riot control measures. No court in this country would allow a taser to be used arbitrarily, especially on those with a heart condition as they quickly and tragically become lethal. A strobe flashlight is the same. It incapacitates human brain function. In epileptics, this is fatal.

8. Officer Laramie was disciplined about a month ago for using the strobe light on me while checking my mouth at pill call. He knew then that I was prone to seizures and that strobes can be fatal. Now, the next time I see him, he uses a potentially lethal device on me arbitrarily. It was an identical act.

9. Officer Laramie has a history of similar abusive behavior towards inmates. He is well known as an officer on a "power trip."

10. I have a grievance being processed now, however, if there is another incident, death can result. That is why I meet every requirement to have this injunctive relief and restraining order granted. I ask the court to stop my death.

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11. Officer Laramie has already been rebuked by Hein for using the strobe on me last month. He did it again. I ask for emergency help from the court carrying the weight of the law behind it.

12. I present three exhibits. Exhibit A is a declaration under penalty of perjury by Austin MacLeod who witnessed the incident, Exhibit B is a declaration under penalty of perjury by Michael Quinones-Albizu who witnessed the event. Exhibit C is a copy of the grievance currently under review. My declaration is attached to my complaint.

13. I ask this Honorable Court to grant this emergency relief ONLY until the grievance has been exhausted. If it is resolved then there is no need for further action. If it is not resolved, Plaintiff will file suit under 42 U.S.C. 1983 giving this court jurisdiction.

Wherefore showing good cause supported by evidence, Plaintiff asks this Honorable Court to grant, temporarily, this Preliminary Injunctive Relief and Temporary Restraining Order (Emergency) while his grievance is being reviewed. This has been shown necessary to prevent imminent loss of life of Burbank by Defendant Laramie.

This the 1st day of November, 2018.

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Mason Burbank 99577

Liberty County Jail

180 Paul Sikes Dr.

Hinesville, GA 31313

Exhibit A

United States District Court
Southern District of Georgia
Savannah Division

Mason Burbank, Inmate No. 99577

v

Case No:

Officer Laramie, Liberty County Jail;
Jeff Hein, Jail Administrator

Declaration of Austin MacLeod, Inmate 87414

I, Austin MacLeod, hereby declare:

1. I am currently in dorm 2B of Liberty County Jail.
2. About 1830 on 10/31/2018 I was playing cards with Mason Burbank and a couple other people when they called pill call.
3. Burbank went to take his medicine.
4. I was facing in the same direction. I saw Burbank take his medicine. Officer Laramie used the flashlight to check Burbank's mouth.
5. As Burbank turned to walk away, I saw Officer Laramie flash the "strobe" function on his flashlight as he smiled.
6. Burbank mentioned the incident as he returned to the table. I told him I saw it.

I declare under penalty of perjury that the foregoing is true and correct.

This the 31st day of October, 2018.


Austin MacLeod 87414
Liberty County Jail
Hinesville, GA

Exhibit B

United States District Court
Southern District of Georgia
Savannah Division

Mason Burbank, Inmate 99577

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Case No:

Officer Laramie, Liberty County Jail

Jeff Hein, Jail Administrator

Declaration of Michael Quinones-Albizu, Inmate 28158

I, Michael Quinones-Albizu, hereby declare:

1. I am in dorm 2B of Liberty County Jail.

2. At 6:30 on 10/31/2018, I was playing cards with Burbank when they called pill call.

3. Burbank went up, took his medicine, and turned back to the table.

4. As Burbank was turning away, Officer Laramie flashed the strobe light. He was smiling.

5. Burbank came back to the table. He was blinking weird and looked tripped out.

6. Burbank asked if he got strobed. I told him "yeah I saw it."

I declare this under penalty of perjury that all the foregoing is true and correct.

This the 31st day of October, 2018.

10/31/2018

Michael Quinones-Albizu 28158

Liberty County Jail
Hinesville, GA

Certificate of Service

I hereby certify that copies of all the foregoing have been served on all parties by placing in the U.S. Mail with postage thereon and addressed as follows:

Clerk's Office

United States District Court

P.O. Box 8286

Savannah, GA 31412

Liberty County Sheriff's Office (2 copies)

180 Paul Sikes Dr.

Hinesville, GA 31313

This the 1st day of November, 2018.

22

Mason Burbank 99577

Liberty County Jail

180 Paul Sikes Dr.

Hinesville, GA 31313

Exhibit C

Relevance Major Hein

10/31/2018

INMATE REQUEST FORM

BAY 2B

1830

INMATES NAME Mason Burbank 99577

SERVICE REQUESTED At 1830 on 10/31/18, I went to pill call. As I turned to walk away, Officer Laramie flashed the strobe light again. I turned back to see him smirking. I was dazed and a headache began shortly thereafter. I told Lt. Walther I will be bringing this to your attention because he was just talked to about the same thing last month. I do not feel safe around him. He can kill me because he wants

INMATES SIGNATURE ZZ DATE 11/1/18 0700

DATE/TIME RECEIVED _____ OFFICER NAME (PRINT) _____

ACTION TAKEN/DISPOSITION to act sadistically and feels there is no consequence. This is just one rogue officer. There is no other guard who tries to give me a seizure. My epilepsy can cause that light to kill me. I do not want to die. I am afraid to see him again and I am now scared of that light. Please keep me reasonably safe from him as I await trial. His wanton disregard of your earlier rebuke is unacceptable

10/2017



JACKSONVILLE
DECEMBER 10
12 PM

Liberty County Jail
180 Paul Skiles Drive
Hinesville, GA 31313
Hinesville, GA 31313
180 Paul Skiles Drive
Liberty County Jail - 2B
Mason Burbank 99577

Clerk's Office
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P.O. Box 8286
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